

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6866 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

VASHRAMBHAI NATHABHAI AHIR

Versus

STATE OF GUJARAT

Appearance:

MR MR PRAJAPATI for Petitioner No. 1

MR VM PANCHOLI, ASST. GOVT PLEADER for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/02/2003

ORAL JUDGEMENT

1. By filing this petition, the petitioner-detenuue has challenged the order dated 6.7.2002, detaining him under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985. By the said order, the

petitioner-detenu is detained as a bootlegger under the aforesaid Act. Along with the detention order, the petitioner was also served with the grounds of detention, wherein there is a reference regarding four criminal cases which are pending against the petitioner. It was found that the petitioner was dealing in Indian Made Foreign Liquor (IMFL). It is submitted that in the aforesaid cases, the petitioner is released on bail. The Detaining Authority, having satisfied about the activities of the petitioner, has passed the order detaining the petitioner. The said order is challenged by the detenu on various grounds.

2. Learned advocate for the petitioner has submitted that the petitioner made a representation to the Detaining Authority on 18.7.2002. However, this representation is decided on 5.8.2002. It is, therefore, submitted that there is delay in deciding the said representation. The authority has tried to explain the said delay, and it has been pointed out by the authority in paragraph 12 of its reply that the detaining authority received the representation on 22.7.02, and it was despatched to the State Government on 24.7.02. The State Government received the same on 29.7.02 and on the next date, i.e. 30.7.02 as there was meeting of the Advisory Board, the same was forwarded to the Board. Therefore, ultimately the representation is decided on 5.8.02.

3. Looking to the reply, it is clear that there is no explanation for not deciding the representation from 30.7.2002 to 4.8.2002. No explanation is forthcoming about the delay in deciding the aforesaid representation. It is well settled law that the representation is required to be decided without delay, and since the delay is not explained, it cannot be said that the representation is decided promptly. Therefore, the order of detention is required to be set aside, and is hereby set aside.

4. Rule is made absolute accordingly. The petitioner-detenu is ordered to be released forthwith if not required in any other case.

Sd/-

(P.B. MAJMUDAR, J.)

mathew